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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,534	03/26/2001	Lee W. Atkinson	COMP:0203	6811

7590 08/06/2004

Intellectual Property Administration
Legal Department, M/S 35
PO Box 272400
Ft. Collins, CO 80527-2400

EXAMINER

PEREZ DAPLE, AARON C

ART UNIT PAPER NUMBER

2154

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Handwritten mark resembling a stylized 'R' or '2'.

Advisory Action

Application No.

09/817,534

Applicant(s)

ATKINSON, LEE W.

Examiner

Aaron C Perez-Daple

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 46-90.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Page (s) _____.
10. ☒ Other: See continuation sheet.


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 5. With respect to independent claims 46, 56, 68, 63, 77, and 86, Applicant asserts that the cited prior art fails to teach "maintaining a substantially constant operating frequency" of the integrated circuit. In the Final Rejection, the Examiner addressed this limitation in the claims by stating that "maintaining substantially constant channel current is the same as maintaining a substantially constant operating frequency." Applicant takes issue with this statement. However, the Examiner has previously cited three references as evidence for the validity of this argument, and therefore the inherency of the limitations to the Bausch reference. Applicant has provided no evidence to the contrary. Applicant's attention is directed to previously cited US 6,235,560 B1, lines 13-14, which states, "The higher the carrier mobility, the higher the operating frequency of the transistor." US 3,793,721, is even more specific, providing an equation specifying the relationship between frequency and channel current in col. 1, lines 37-50. The Examiner notes that, for a given IC circuit used in the invention of Bausch, the drain voltage and channel length will be fixed. Therefore, the frequency is directly proportional to the channel current. For all of these reasons, claims 46-90 have been properly rejected under 35 USC 102 and 103.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection of claims 64 and 80 under 35 USC 112, second paragraph, which is hereby withdrawn in view of Applicant's Remarks.

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